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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,367	11/25/2003	Samuel M. Shaolian	ENDOLOG.023CP1	4603
29995 7590 03/26/2008 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614				
EXAMINER				
SEVERSON, RYAN J				
ART UNIT		PAPER NUMBER		
3731				
NOTIFICATION DATE		DELIVERY MODE		
03/26/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com
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Office Action Summary

Application No.

10/722,367

Applicant(s)

SHAOLIAN ET AL.

Examiner

Ryan Severson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 24-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 24-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date 9/21/2007, 11/30/2007
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Quiachon et al. (5,769,885) in view of Dorros (5,720,735) and Anderson et al. (5,647,857).** Quiachon reference discloses a deployment system for a bifurcated graft where the main vessel portion is oriented distal relative to the branch vessel portions (see figures 7 and 30). The deployment system further includes an outer sheath (160) and an inner core (54) with a distal tip (90). However, Quiachon reference does not disclose main and branch vessel graft restraints that are peelable. Attention is drawn to Dorros reference, which teaches main and branch vessel graft restraints (62 and 60) that are peelable to allow the graft to be covered until placed at the correct location for deployment, then allowing the restraints to be removed without disturbing this precise placement due to sliding friction between the graft and a typical axially retractable sheath. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include peelable graft restraints over the graft of Quiachon reference, as taught by Dorros reference, to allow the graft to be placed in a precise location as described above.

3. The combination of Quiachon and Dorros references further does not disclose release elements attached to the restraints. Attention is drawn to Anderson reference, which teaches a release element (30) may be used with a peelable sheath to allow the sheath to be removed without disturbing the placement of the stent (see column 5, lines 53-56). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to couple a release element as taught by Anderson reference to the peelable sheaths of the combination of Quiachon and Dorros references to allow the sheaths to be removed without disturbing the placement of the stent.

4. **Claims 10-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Quiachon et al. (5,769,885) in view of Dorros (5,720,735).** The combination of Quiachon and Dorros reference discloses the invention as claimed in claims 10-15 as substantially described above in paragraph 2. The prosthesis further has an expansion spring (see figure 7 of Quiachon) having an apex and legs that help support the prosthesis. An RO marker (166, see figure 6) is disposed on the outer sheath.

5. **Claims 24-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Del Toro (5,733,267) in view of Anderson et al. (5,647,857).** Del Toro discloses a straight tube graft deployment system including an outer sheath (32), a graft restraint (34), and an inner core (36). The inner core of Del Toro is blunt, and therefore is interpreted as an atraumatic distal tip. However, Del Toro does not disclose the graft restraint is peelable and has a release element attached thereto. Attention is drawn to Anderson reference, which teaches a release element (30) may be used with a peelable

sheath to allow the sheath to be removed without disturbing the placement of the stent (see column 5, lines 53-56). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the peelable graft restraint and release element as taught by Anderson reference to replace the graft restraint of Del Toro to allow the sheaths to be removed without disturbing the placement of the stent.

6. Regarding claims 26 and 27, Anderson discloses two release elements may be used and the restraint is configured as a two piece restraint, thus comprising the first and second graft restraints, as claimed.

Response to Arguments

7. Applicant's arguments with respect to claims 1, 10, and 24 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

9. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan Severson whose telephone number is (571)272-3142. The examiner can normally be reached on Monday - Friday 8:30-5:00.

11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on (571) 272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. S./

Examiner, Art Unit 3731

/Todd E Manahan/

Supervisory Patent Examiner, Art Unit 3731